IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 12542 of 1993

Between:

J. Pratab Singh, died per L.R. Smt. Shanta Devi, W/o. Dharam Veer Singh, R/o. H.No. 4-89, Vikasnagar Colony, Dilsukhnagar, Hyderabad.

..... PETITIONER

AND

1 Principal Secretary to Government, Revenue Department,

Govt. of A.P., Secretariat, Hyderabad.
2 Special Officer and Competent Authority, Urban Land

Ceiling, Hyderabad.
3 Smt. Lakpathi Devi, W/o. late Shanti Kumar Singh, R/o.

Jaunpur District, U.P.
4 Smt. Rajmatha Devi, (died) per LRs, W/o. Late Inderjeet

Singh, R/o. Jaunpur District, U.P.
5 Smt. Shivamathi Devi,(died) per LRs, W/o. late Ranbir

Singh, R/o. Katni,

M.P.

6 Suryapratap Singh, s/o. J.P. Singh, R/o. Dwarakapuri

Colony, Hyderabad.
7 T.K. Singh, S/o. late Gajraj Singh, R/o. Sankeswar Bazar,

Hyderabad.
8 Rayipratap Singh, S/o. J.P. Singh, R/o. Sankesar Bazar,

Hyderabad.
9 J. P.Singh, S/o. late Gajraj Singh, R/o. Dwarakapuri

Colony, Hyderabad.
10 Harinath Babu, S/o. not known to the petitioner, Major,

R/o. Hyderabad.
11 Smt. Kamala Bai, W/o. not known to the petitioner, R/o.

Hyderabad,
12 S. L. Reddy, S/o. not known to the petitioner, Major, R/o.

Hyderabad.
(RR 10 to 12 dismissed for default vide Court order dated

15.6.2001)

13 The Singareni Colleries Officers Co-operative House

Building Society Ltd., Regd No. TAB-245 Rep. by
A.Rajendra Prasad, S/o. Nagabhushanam, Occ: Executive

Officer (H), R/o. H.No. 103, Jaya Residency,
Osmangad, New Malakpet, Hyderabad.

(R 13 is impleaded as per Court order in WPMP 23270/01

dated 7-6-2002)

14. Smt. Kiran Singh, W/o. Yashwanth Singh, Kolepande, Shantinagar, Post: Sadar, District: Azamgadh, U.P.

15. Smt Sashikala Singh, W/o. late Bahadur Singh, Purani vill (Khurd) Post, Khethasarai, Jaunpur District, U.P.

16. Ramakrishna Singh, S/o. Late Ranveer Singh, R/o. Gyathrinagar, New Kanthi Road, Kanti, M.P.

17. Shyam Krishna Singh, S/o. Ranveer Singh, R/o. Gayathrinagar,New Kanthi Road, Kanti, M.P.

(RR14 ,15 and 16,17 brought on record as LRs of deceased R4 and R5 as per court order dated 16-9-2004 and 25-11-2004 in WPMPs 21756/04 and 21755/04 respectively)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly in the nature of writ of mandamus

declaring the order of the Appellate Authority dated 17.6.1993 in Appeal No. UC/40/90 confirming the orders of the 2nd Respondent in C.C. No. 9825/76 and connected C.Cs. as illegal, arbitrary and not binding on the petitioner and they are liable to be set aside and quashed by directing the 2nd Respondent to dispose of the case after giving a reasonable opportunity to the petitioner as the legal representatives of the deceased declarant Sri Jai Pratab Singh in C.C.No. 9825/76 and to place all the evidence and to file all documents.

Counsel for the Petitioner: MR.G.DHANANJAI

Counsel for Respondent Nos.1 and 2: G.P. FOR REVENUE

Counsel for Respondent Nos.3,6,8,9,14, 15, 16 and 17: SRI A.M. SRINIVASA RANGA CHARY.

Counsel for Respondent No.7: SRI V.HARIHARAN

Counsel for Respondent No.13: SRI A.SUDERSHAN REDDY.

The Court made the following order:

This writ petition is filed by the petitioner to declare the order of the Appellate Authority dated 17-6-1993 in Appeal No. UC/40/90 confirming the order of the 2nd respondent in C.C.No.9825/76 and connected CCs as illegal and arbitrary and to direct the 2nd respondent to dispose of the case after giving a reasonable opportunity to the petitioner.

The brief facts of the case are that the father of the petitioner (Jai Pratab Singh) filed a declaration in C.C.No.9825/76 under the provisions of the Urban Land Ceiling Act in the year 1976. During the pendency of enquiry before the 2nd respondent, the father of the petitioner died leaving behind him the petitioner herein and another daughter Smt Uma Devi as the only legal heirs. After coming to know about the pendency of the proceedings, the petitioner and her sister filed an application dated 17-9-1990 for bringing them on record as legal representatives of the deceased declarant. Thereafter, the petitioner also filed an application before the 2nd respondent to fix a date for enquiry in order to lead evidence. But in spite of filing those two petitions, the 2nd respondent passed an order declaring the excess area in respect of the holding of the father of the petitioner on 17-9-1990 without any enquiry. Against the same, the petitioner has preferred an appeal before the Appellate Authority and the Appellate Authority dismissed the appeal filed by the

petitioner. Hence the writ petition.

It is submitted by Sri G. Dhananjai, learned counsel for the petitioner that the father of the petitioner died on 28-2-1990 during the pendency of the proceedings before the Special Officer and Competent Authority, the 2nd respondent herein and that after his death, two applications have been filed by the petitioner, one is to bring the legal representatives on record and another is to fix a date for conducting enquiry. But without deciding those two applications, the competent authority has chosen to pass the final orders holding that the legal representatives are not entitled for any share in the property of their late father-declarant. It has been further submitted that the finding of the competent authority is against the provisions of law and the competent authority has no authority to decide the question of law without going into the merits of the declaration filed by the declarant and therefore, the order has to be set aside and the matter has to be remanded to the competent authority for fresh decision after affording an opportunity of hearing to all the concerned.

The relevant portion of the order reads as follows:

"The final holding of Sri Jai Pratap Singh:-

> In addition to the ancestral property to an extent of 1,29,007.29 sq. mts the wife of the declarant Smt. Prabhavathi Devi acquired to an extent of 141.00 sq. mtrs. in premises No. 22-2-266/2 Dabeerpura which is computed to the holding of the declarant as per section 2(f) of the Urban Land Ceiling Act.
>
> The declarant expired on 28-2-1990 and the Legal Representatives are brought on record. He is survived by two daughters i.e., (1) Smt. Shantha W/o. Dharamveer Singh (2) Smt Uma W/o. Ghansham Persha. Since Jai Pratap Singh expired on 28-2-90 i.e., after the Act, hence L.Rs are not entitled to the share in the property."

From a reading of the order, it is clear that the finding of the competent authority is against the provisions of law and hence the order is liable to be set aside.

Learned counsel appearing for respondent No.13-the Singareni Colleries Officers Cooperative House Building Society Limited has submitted that an extent of Acs.80.00 of land has already been sold to respondent No.13 and possession has been handed over to it and that the employees have already constructed their

dwelling houses. Learned counsel has also brought to the notice of this Court, the averments made in Writ Petition Nos. 20040 of 1987 and 11122 of 1988 filed by late J.Pratap Singh and others and the relevant portion is as follows:

> "On 3-11-1979 the petitioners entered into an agreement with the Singareni Collieries Officers Cooperative House Building Society Ltd., the 2nd respondent herein agreeing to sell an extent of 80 acres of land for a sum of Rs.6 lakhs and the latter should obtain the necessary permissions and release the allotment orders. On the same day, the petitioners received an advance of Rs.1 lakh as advance. As per the agreement, the balance of Rs.5 lakhs shall be paid on or before 31-3-1980 or as and when the necessary permissions are obtained whichever is earlier. On 9-5-1980, the petitioners delivered possession of the land."

The learned counsel further submitted that the above averments made in the writ petitions remained uncontroverted and the writ petitions have been dismissed by a learned single Judge of this Court holding that the petitioners are not entitled to the benefit of G.O.Ms.No.5012 dated 19-12-1980.

In view of the averments made in the above writ petitions which remained uncontroverted by any of the parties and in view of the fact that Acs.80.00 of land has been sold and delivered on 9-5-1980, the competent authority is directed to dispose of the matter by excluding 80 acres of land which has been given in possession to Singareni Colleries Officers Cooperative House Building Society Limited.

With the above direction, the writ petition is allowed and the order of the Special Officer and Competent Authority, Urban Land Ceilings, Hyderabad is set aside and the matter is remanded to the Special Officer and Competent Authority, for fresh disposal within a period of three months from the date of receipt of a copy of this Order after giving an opportunity of hearing to all the concerned. Till such time, the interim stay earlier granted by this Court shall continue. No costs.

28-10-2004

lvl

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the twenty eighth of October, Two thousand and four.

Assistant Registrar

To

1 Principal Secretary to Government, Revenue Department,

Govt. of A.P., Secretariat,
Hyderabad.
2 Special Officer and Competent Authority, Urban Land

Ceiling, Hyderabad.
3 2CCs to the Government Pleader for Revenue, High Court of

A.P., Hyderabad. (OUT)

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